

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2005-85-C - ORDER NO. 2005-519
OCTOBER 3, 2005

IN RE: Application of Voicecom Telecommunications, LLC for a Certificate of Public Convenience and Necessity to Provide Resold Long Distance Telecommunications Services and for Alternative Regulation of its Long Distance Service Offerings.)	ORDER
)	GRANTING
)	CERTIFICATE FOR
)	INTEREXCHANGE
)	AUTHORITY AND
)	MODIFIED
)	ALTERNATIVE
)	REGULATION

The Public Service Commission of South Carolina (the “Commission”) hereby adopts the following Order proposed by Hearing Examiner David Butler in this case and subsequently consented to by the parties, and hereby makes it the Order of the Commission in this case:

This matter comes before the Commission by way of the Application of Voicecom Telecommunications, LLC (“Voicecom” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of interexchange telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2004) and the general regulatory authority of the Commission. By its Application, Voicecom also requests alternative regulation of its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-

661-C, as modified by Order No. 2001-997, and requests waiver of certain Commission regulations.

The Commission's Docketing Department instructed Voicecom to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of Voicecom and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Voicecom complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene or Protests were filed.

This Commission appointed Mr. David Butler as hearing examiner in this case in Order No. 2005-331, pursuant to the authority granted in S.C. Code Ann. Section 58-9-1020 (1976). Subsequent to the hearing in this matter, and pursuant to 26 S.C. Code Ann. Regs. 103-865, Mr. Butler submitted a proposed order to the parties in this matter, and gave those parties ten days after receipt of that Order to file exceptions to the Order, briefs, or a request for oral argument before this Commission. No briefs or requests for oral argument were received. One exception was filed, but the hearing examiner and other party agreed to the proposed change. Accordingly, we will decide the matter based on the record of the case and the final proposed Order as submitted by the hearing examiner and agreed upon by the parties.

A hearing was convened before the hearing examiner on August 4, 2005, at 10:30 a.m. in the Commission's Meeting Room, Columbia, South Carolina. Voicecom was

represented by John J. Pringle, Jr., Esquire. C. Lessie Hammonds, Esquire, represented the Office of Regulatory Staff.

Bud Sindlinger, Director of Accounting Services for the Company, appeared and adopted the prefiled testimony of Dan Mell, Chief Financial Officer, in support of the Application. The record reveals that Voicecom is incorporated in the State of Delaware and registered to transact business in South Carolina as a foreign corporation. According to Mr. Sindlinger, Voicecom proposes to provide its telecommunications services by reselling the switched, intrastate, long distance (interLATA and intraLATA toll) voice communications services of various certificated long distance companies, including AT&T and MCI. Voicecom does not intend to own or control any transmission facilities, but instead intends to utilize its own switching equipment (located in Atlanta, Georgia) along with transmission services of one or more certificated long distance carriers in order to provide its services.

Voicecom proposes to offer switched, intrastate, long distance telecommunications resale services to residential and business customers in South Carolina. Currently, Voicecom's services consist of: (i) "Prepaid Calling Card Service" whereby customers may use prepaid calling cards to originate outbound long distance calls through use of Voicecom-provided toll free telephone numbers; (ii) "Calling Card Service" whereby customers may use traditional post-paid calling cards to originate outbound long distance calls through use of Voicecom-provided toll free telephone numbers; and (iii) "Voicecom Personal Assistant Service" which is a "find me/follow me" service whereby customers may be located at various designated telephone numbers

after receiving calls to such customers' personal assistant access code numbers. Voicecom's Personal Assistant Service also permits customers to obtain access to voice and facsimile mail services, long distance services, conference calling services and information services. Mr. Sindlinger explained the Company's request for authority, and the record reveals additional information about the Company's services, operations, and marketing procedures.

Mr. Sindlinger testified that he understands that Voicecom will have to post a surety bond or certificate of deposit with the Commission in the amount of \$5,000 prior to offering its prepaid calling card services in South Carolina.

Mr. Sindlinger also discussed Voicecom's technical, financial, and managerial resources to provide the services for which it seeks authority to provide. Mr. Sindlinger offered that Voicecom possesses sufficient financial resources to support its operations in South Carolina. With regard to management and technical capabilities, Mr. Sindlinger testified that Voicecom is currently licensed to provide telecommunications services in twenty-nine states. The Company has not been denied a license in any of the states in which it has applied, has had no licenses revoked in any jurisdictions, nor has it been the subject of any investigations by any governmental regulatory agencies. Both the Company's Application and Mr. Sindlinger's testimony evidence reveal that members of Voicecom's management team have extensive experience in marketing and communications. Mr. Sindlinger also testified that Voicecom will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

Mr. Sindlinger offered that approval of Voicecom's Application would serve the public interest by increasing the level of long distance competition in South Carolina, by providing a high-quality alternative of long distance service, and by increasing consumer awareness of options and services available, thus encouraging the growth and success of competitive services.

It appears that the Company was involved in Docket No. 2002-302-C, by which it sought approval to acquire the assets of another telecommunications carrier. (The contents of that Docket were entered into the evidence of this case, pursuant to 26 S.C. Code Ann. Regs. 103-871 (A) (1976).) No hearing was ever held in the Docket. The Commission actually dismissed the Application, as per Order No. 2003-350. Apparently, the asset transfer took place anyway, and apparently the Company is earning a small amount of intrastate revenue every month. During the hearing in this Docket, the Company pledged that it would refile the asset transfer case for approval by this Commission as soon as possible.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Voicecom is organized as a corporation under the laws of the State of Delaware and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. Voicecom is currently licensed to operate as a telecommunications reseller in twenty-nine states, has a substantial customer base, and has no reported record of violations of regulatory laws or regulations in the jurisdictions in which it is currently operating.

3. Voicecom desires to operate as a reseller of interexchange telecommunications services in South Carolina.

4. We find that Voicecom possesses the managerial experience and capability to operate as a non-facilities based reseller of interexchange services in South Carolina.

5. We further find, based on the financial records and balance sheets submitted by the Company, that Voicecom possesses sufficient financial resources to provide the services as described in its Application.

6. In addition, we find that the issuance of a Certificate of Public Convenience and Necessity to Voicecom to operate as a reseller of interexchange telecommunications services in South Carolina would be in the best interest of the citizens of South Carolina by increasing the level of long distance competition in South Carolina, by providing an alternative for long distance service, and by increasing consumer awareness of options and services available, thereby encouraging growth and success of competitive services.

7. We also find that assets of another telecommunications company were apparently transferred to Voicecom without approval of the Commission. Although we find herein that Voicecom should be granted a Certificate of Public Convenience and

Necessity, we find that the Company must apply for approval of the asset transfer in order to comply with the provisions of the telecommunications code of laws. We further find that Voicecom has earned intrastate South Carolina revenues prior to certification.

8. Finally, as agreed to by the Company, we find that, since the Company intends to offer a prepaid calling card as one of its services, a \$5,000 bond should be posted with this Commission.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission concludes that a Certificate of Public Convenience and Necessity should be granted to Voicecom to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission, including those described by the Company in its Application.

2. The Commission adopts a rate design for Voicecom for its resale of residential services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Voicecom shall not adjust its residential rates below the approved maximum level without notice to the Commission and to the public. Voicecom shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2004).

4. With respect to Voicecom's business services, the Commission adopts a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to Voicecom also. These alternative regulation orders were modified by Order No. 2001-

997 in Docket No. 2000-407-C which imposed a cap on operator-assisted calls where a consumer uses a local exchange carrier's calling card to complete calls from locations which have not selected the local exchange carrier as their toll provider.

Pursuant to Order No. 2001-997, this Commission modified the alternative regulation by the re-imposition of rate caps with regard to certain operator-assisted calls where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. The re-imposition of rate caps for certain operator-assisted calls has led to alternative regulation now being known as "modified alternative regulation." The provisions of Order No. 2001-997 and the modification contained therein also apply to Voicecom.

5. If it has not already done so by the date of issuance of this Order, Voicecom shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

6. Voicecom is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

7. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. Voicecom shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Voicecom changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, Voicecom shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, Voicecom shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

10. Voicecom shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Voicecom shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at www.psc.sc.gov/reference/forms.asp. The title of this form is "Annual Report for

Interexchange Companies.” This form shall be utilized by the Company to file annual financial information with the Commission and the Office of Regulatory Staff and shall be filed no later than **April 1st**. Commission gross receipts forms are due to be filed with the Commission and the Office of Regulatory Staff no later than **August 31st** of each year. The proper form for filing gross receipts information can be found at the Commission’s website at www.psc.sc.gov/reference/forms.asp, and the appropriate form is entitled “Gross Receipts for Utility Companies.”

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and Office of Regulatory Staff in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Voicecom shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at www.psc.sc.gov/reference/forms.asp; this form shall be utilized for the provision of this information to the Commission and Office of Regulatory Staff. Further, the Company shall promptly notify the Commission and Office of Regulatory Staff in writing if the representatives are replaced.

12. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

13. At the hearing, Voicecom requested a waiver of 26 Code Regs. 103-610 (1976), which requires that records required by the Commission's Rules and Regulations be maintained in South Carolina. The record reveals that Voicecom's principal headquarters will be located in Georgia, and Voicecom requests permission to maintain its books and records in that state. The Commission finds Voicecom's requested waiver reasonable and understands the difficulty presented to Voicecom should the waiver not be granted. The Commission therefore grants the requested waiver that Voicecom be allowed to maintain its books and records at its principal headquarters. However, Voicecom shall make available its books and records at all reasonable times upon request by the Commission or the Office of Regulatory Staff, and Voicecom shall promptly notify the Commission if the location of its books and records changes.

14. Voicecom also requests that it be exempt from record keeping policies that require a carrier to maintain its financial records in conformance with the Uniform System of Accounts (USOA). The USOA was developed by the FCC as a means of regulating telecommunications companies subject to rate base regulation. As a competitive carrier, Voicecom maintains its book of accounts in accordance with Generally Accepted Accounting Principles (GAAP). GAAP is used extensively by interexchange carriers. Moreover, Voicecom asserts that because it utilizes GAAP, the Commission will have a reliable means by which to evaluate Voicecom's operations and assess its financial fitness. Accordingly, Voicecom hereby requests an exemption from the USOA requirements. We grant the Company's request for the reasons stated above.

15. Each telecommunications company certified in South Carolina is required to file annually the Intrastate Universal Service Fund (USF) worksheet. This worksheet provides the Commission and Office of Regulatory Staff information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed with the Commission and the Office of Regulatory Staff annually no later than August 15th.

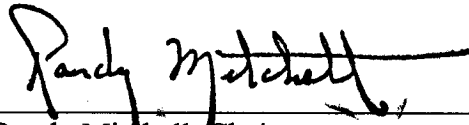
16. Refund of the South Carolina earned revenues is waived.

17. Voicecom shall file an Application with the Commission for approval of the asset transfer discussed above within thirty (30) days of its receipt of this Order. Failure to do so will necessitate review of the grant of authority in this Order, and may lead to revocation of same for failure to comply.

18. As a condition of offering prepaid long distance services, the Commission requires the Company to post with the Commission a bond in the form of a Certificate of Deposit worth \$5,000 drawn in the name of the Public Service Commission of South Carolina or a surety bond in the amount of \$5,000 which is payable to the Commission. The Certificate of Deposit shall be drawn on federal or state chartered banks or savings and loan associations which maintain an office in this state and whose accounts are insured by either the FDIC or the Federal Savings and Loan Insurance Corporation. A surety bond shall be issued by a duly licensed bonding or insurance company authorized to do business in South Carolina. This condition may be reviewed in one year.


19. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Randy Mitchell, Chairman

ATTEST:



G. O'Neal Hamilton, Vice Chairman

(SEAL)